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12 **UNITED STATES BANKRUPTCY COURT**
13 **DISTRICT OF NEVADA**

14 In re:

15 USA Commercial Mortgage Company,

16 Debtor.

17 Case No. BK-S-06-10725-LBR

18 Chapter 11

19 **DECLARATION OF GEOFFREY L.
BERMAN IN SUPPORT OF
OMNIBUS OBJECTION OF USACM
TRUST TO PROOFS OF CLAIM
BASED UPON INVESTMENT IN
HESPERIA II LOAN**

20 Hearing Date: September 30, 2011

21 Hearing Time: 9:30 a.m.

22 Estimated Time for Hearing: 10 minutes

23 I, Geoffrey L. Berman, declare under penalty of perjury:

24 1. I am an adult person competent to testify in court.

25 2. I make this declaration based upon my personal knowledge, and upon the
records USA Commercial Mortgage Company.

26 3. I am the Trustee of the USACM Liquidating Trust (“USACM Trust”),
which is an entity created by the Debtors’ Third Amended Joint Chapter 11 Plan of
Reorganization (“Plan”), in the jointly-administered bankruptcy cases, In re USA
Commercial Mortgage Company, BK-S-06-10725-LBR, pending in the United States
Bankruptcy Court for the District of Nevada.

1 4. USACM circulated an Offer Sheet to prospective Direct Lenders soliciting
2 funding for a loan to Southern California Land Development, LLC, described as a joint
3 venture between USA Investment Partners and Monaco Diversified Corporation. A copy
4 of the Offer Sheet is attached hereto as **Exhibit B** and incorporated by this reference. The
5 total loan amount proposed was \$4,250,000. The Offer Sheet stated the investment would
6 be secured by a “second deed of trust on 7 different parcels totaling approximately 60.5
7 acres of land in Hesperia, California near Main Street and Interstate 15.” The Offer Sheet
8 further provided that the loan would provide the Borrower with a “return on equity
9 invested as well as satisfy development and construction lender requirements and provide
10 for the balance of the hardscape” and model home furnishings. The Offer Sheet further
11 stated that the combined loan to value of both the first and the second loans on the
12 property was approximately 67% based on estimated comparable sales of lots in the area.
13 Pursuant to the Offer Sheet, an appraisal update for the land was in process.

14 5. On April 1, 2005, the Borrower made and delivered to various lenders,
15 including the Direct Lenders identified in **Exhibit A**, a “Promissory Note Secured by
16 Deed of Trust,” in the amount of \$4,250,000 (the “Note”) and a Loan Agreement. The
17 Loan Agreement and Note provided for an initial loan of \$3,400,000, with potential
18 subsequent advances up to \$4,250,000. The Note was secured by a “Deed of Trust,
19 Assignment of Rents, Security Agreement and Fixture Filing” (the “Deed of Trust”) from
20 Borrower in favor of the Direct Lenders that was recorded in the official records of San
21 Bernardino County, California on April 27, 2005 at Instrument Number 20050294868, as
22 were subsequent amendments to the Deed of Trust securing additional advances. The
23 Loan Agreement expressly provides that the loan funds will be used to refinance and pay
24 costs of obtaining certain entitlements, and further provides that the Deed of Trust “shall
25 be subordinate to one senior deed of trust on each parcel in favor of Vinyard Bank [sic].”
26

6. The Note was also supported by an Unconditional Guaranty executed by
both Tom Hantges and Joseph Milanowski on April 1, 2005.

7. The USACM "Loan Summary" dated July 31, 2006 and filed in this case shows that Borrower was "Performing" on the Note as of July 31, 2006 as there was sufficient cash held by the disbursing agent to pay outstanding interest due. Pursuant to the USACM "Loan Summary" dated February 28, 2007 and filed in this case, the Borrower was no longer performing on the Note as of that date.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 8, 2011

/s/ Geoffrey L. Berman
Geoffrey L. Berman

Copy of the foregoing deposited (without Exhibits) in first class postage prepaid U.S. Mail on August 8, 2011 to All investors listed on Exhibit A Attached.

s/ Matt Burns
Matt Burns, Paralegal